



Economic Impact Analysis Virginia Department of Planning and Budget

**12 VAC 5-620 – Regulations Governing Fees for Onsite Sewage Disposal Systems,
Alternative Discharge Systems, and Private Wells**
Virginia Department of Health
January 26, 2012

Summary of the Proposed Amendments to Regulation

The State Board of Health proposes to 1) establish that the fees charged for construction, maintenance and repair or replacement of onsite sewage disposal systems, alternative discharge systems, and private wells will be the maximum allowed by the Code of Virginia or the 2010 Appropriation Act and that the permit fee for a minor modification of an existing system will be half of the fee for onsite sewage disposal system construction permit, 2) allow the Virginia Department of Health to charge a fee for applying to replace a private well, to refund the fee upon permanently abandoning or decommissioning the old well, and to clarify that no fee will be charged for decommissioning of a private well in cases where no replacement is planned, and 3) clarify that refunds must be requested in writing within 12 months of the denial of the permit, withdrawal of the application, or the conclusion of the appeal process.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

One of the proposed changes establishes that the fees charged for construction, maintenance, and repair or replacement of onsite sewage disposal systems, alternative discharge systems, and private wells will be the maximum allowed by the Code of Virginia or the 2010 Appropriation Act. In addition, the permit fee for a minor modification of an existing system will be half of the fee for the onsite sewage disposal system construction permit.

The current fee amounts in the regulations were established in 1988¹. Since then the fees were revised by legislation in 1994², 2003³, 2008⁴, and 2010⁵, but the specific amounts in the regulations have not been updated. Historically, the actual amounts of fees charged by the Virginia Department of Health (VDH) have been the maximum allowed by the legislation. According to VDH, updating the regulations to reflect the specific amount of fees has been impractical due to the high frequency of legislative actions affecting fees.

The proposed changes will establish that the fees are the maximum allowed by legislation except for minor modifications to existing permits where the fee would be 50% of the regular amount. However, the regulations will not contain a specific amount for the fees. This approach will allow VDH to update their fee schedule very quickly through an exempt regulatory action. Since the actual fees currently charged are the same as the maximum allowed by the legislation, no significant economic effect is expected. The main benefit of this proposed change is the elimination of potentially confusing differing amounts in the regulations and what is being charged in practice. In addition, VDH will charge lower fees for minor modification permits since they require less administrative work to process. Based on fiscal year 2011 data, VDH estimates that approximately 247 to 495 applications may be submitted for a minor modification permit which is expected to lower fee revenues between \$48,893 and \$97,587 per year. The main benefit of this change is to adjust the fee scale to be commensurate with the relative time it takes to process minor modification permits.

Another proposed change will allow VDH to charge a fee for applying to replace a private well and to refund the fee upon permanently abandoning or decommissioning the old well. Currently, VDH does not charge any fees at the time of the initial application for replacement wells. In addition, the proposed changes will clarify that no fee will be charged for decommissioning of a private well in cases where no replacement is planned. In 2011, VDH received 1,175 applications for private well replacements and 379 applications to abandon wells.

The main cost of this change falls on the applicants who will have to pay a fee amount to be reimbursed at a later time when the well is decommissioned. These applicants will have a

¹ Chapter 203, 1988 Acts of Assembly.

² Chapter 747, 1994 Acts of Assembly.

³ Item 314, 2003 Appropriation Act.

⁴ Item 296, 2008 Appropriation Act.

reduced liquidity until they get their refund back and will have to absorb the time value associated with the fee amount being held by VDH for a period of time.

On the other hand, this change will provide additional incentives to properly close a well and to provide information to VDH about the wells that are closed. According to VDH, improperly abandoned or decommissioned wells pose fall risks, groundwater contamination risks, and improper use risks such as being used as an illegal sewage dumping place.

The proposed changes will also clarify that refunds must be requested in writing within 12 months of the denial of permit, withdrawal of the application, or the conclusion of the appeal process. According to VDH, currently there is some confusion surrounding the procedures for refunds. This proposed change is expected to clarify the conditions and time period in which a refund can be requested.

The remaining proposed changes are clarifications of other current requirements or incorporation of changes in the Code of Virginia and current policies followed in practice. Thus, no significant economic effects are expected from remaining changes other than improving the clarity of the regulations.

Businesses and Entities Affected

In 2011, VDH received approximately 20,000 sewage disposal or private well construction applications from an estimated 15,000 individuals and businesses. In addition, there are approximately 350 licensed individuals providing site evaluation and /or design services for onsite sewage disposal systems, single family discharge sewage systems, and installation of private wells.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed changes are expected to reduce the need for administrative staff time that would have been necessary to update the regulations through the standard regulatory process on a frequent basis.

⁵ Item 287, 2010 Appropriation Act.

Effects on the Use and Value of Private Property

The proposed changes are not expected to have a significant direct effect on the use and value of private property. However, the proposed reduction in fees for minor modifications may contribute to the value of homes as it could be considered as a reduction in potential maintenance costs. Also, increased incentives to properly close wells may lead to a reduction in the number of inappropriate closures and add to the value of private property at the aggregate.

Small Businesses: Costs and Other Effects

Of the 350 licensed individuals providing site evaluation and /or design services for onsite sewage disposal systems, single family discharge systems, and installation of private wells who may be affected by the proposed regulations, the majority are estimated to be small businesses. While the proposed changes do not impose any direct costs on these small businesses, other effects on them are the same as discussed above.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed changes do not impose any significant adverse impact on the small businesses.

Real Estate Development Costs

No significant direct impact on real estate development costs is expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other

administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.